

# ELECTIONS

## CHAPTER 200

### HOUSE BILL NO. 1149

(Political Subdivisions Committee)  
(At the request of the Secretary of State)

## VOTING AND ABSENTEE BALLOTS

AN ACT to amend and reenact sections 16.1-01-05, 16.1-05-06, 16.1-07-08, 44-02-01, and 58-04-09 of the North Dakota Century Code, relating to voting by an elector moving from one precinct to another, procedures for challenging voters and voters who apply for absent voter's ballots, and when vacancies in office occur.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-05. Voting by qualified elector moving from one precinct to another.**  
~~Where~~ If a qualified elector moves from one precinct to another precinct within this state, the person elector is entitled to vote in the precinct from which the ~~person~~ elector moved until the ~~person~~ elector has established a new ~~voting~~ residence pursuant to section 16.1-01-04.

**SECTION 2. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-06. Challenging right of person to vote - Affidavit required - Penalty for false swearing - Optional poll checkers.**

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. The members of the election board and poll challengers may challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. Members of the election board or poll challengers may challenge a voter if they know or have reason to believe any of the following:
  - a. The person offering to vote does not meet the age or citizenship requirements.
  - b. The person offering to vote has never voted in the precinct before and fails to provide reasonable evidence of residency in the precinct.

- c. Except as provided in section 16.1-01-05, the person offering to vote physically resides outside of the precinct.
        - d. The person offering to vote does not meet the residency requirements provided in section 16.1-01-05.
  - 3. If any person offering to vote is challenged by a poll challenger or by a member of the election board, the challenged person, unless the challenge is withdrawn, shall stand aside and may not vote unless the challenged person executes an affidavit, acknowledged before the election inspector, that the challenged person is a legally qualified elector of the precinct.
  - 4. The affidavit must include ~~the~~:
    - a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
    - b. The previous last name of the affiant if it was different when the affiant last voted.
    - c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
    - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
    - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
  - 5. Written notice of the penalty for making a false affidavit and that the county auditor ~~will~~ may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. Any person who falsely swears in order to vote is guilty of ~~an offense~~ a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
  - 6. The county auditor shall verify randomly at least ten percent of the affidavits signed in the county and shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.
  - ~~2.~~ 7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
  - ~~3.~~ 8. No poll challenger or checker may be a member of the election board.

**SECTION 3. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-08. Delivering ballots - Envelope accompanying - Statement on envelope - Challenging electors voting by absentee ballot - Inability of elector to sign name.**

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.
2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and an envelope must be enclosed with the ballot or ballots. The front of the envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed statement in substantially the following form:

Precinct \_\_\_\_\_  
Name \_\_\_\_\_  
Residential Address \_\_\_\_\_  
City \_\_\_\_\_ ND Zip Code \_\_\_\_\_  
Under penalty of possible criminal prosecution for making a false statement, I swear that ~~the above residential address is my address for voting purposes~~ I reside at the residential address provided above,  
that I have resided in my precinct for at least thirty days, and this is the only ballot I will cast in this election.  
Applicant's Signature \_\_\_\_\_  
Date \_\_\_\_\_

If the absent voter is unable to sign the voter's name, the voter shall mark (X) that statement in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X and shall sign that person's own name following the printed name with the notation "witness to the mark".

3. The county auditor, city auditor, or business manager of the school district, as the case may be, may challenge the right of anyone to vote an absent voter's ballot whom that officer knows or has reason to believe is not a qualified elector. When challenging a voter who has applied for an absentee voter's ballot, the election official shall follow the procedures and use the affidavit provided for in section 16.1-05-06 and include a voter's affidavit with the outgoing absentee voter's ballot along with an

explanation that the voter's right to vote is being challenged and that the voter's affidavit must be completed and returned with the voter's absentee voter's ballot to be accepted.

<sup>163</sup> **SECTION 4. AMENDMENT.** Section 44-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-01. Vacancies - Causes thereof.** An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;
4. Be removed from office;
5. Fail to discharge the duties of ~~his~~ office, when ~~such~~ the failure has continued for sixty consecutive days, except when prevented from discharging ~~such~~ the duties by reason of ~~his~~ the person's service in the armed forces of the United States, by sickness, or by other unavoidable cause; ~~provided, however, that.~~ However, as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during ~~his~~ that person's absence, and ~~such~~ the office in all cases becomes vacant upon the termination of the term for which ~~he~~ the person was elected or appointed;
6. Fail to qualify as provided by law;
7. Cease to be a resident of the state, district, county, or ~~township~~ other political subdivision in which the duties of the office are to be discharged, or for which ~~he~~ the person may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of ~~his~~ the person's official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or
10. Have ~~his~~ the person's election or appointment declared void by a competent tribunal.

**SECTION 5. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>163</sup> Section 44-02-01 was also amended by section 9 of House Bill No. 1181, chapter 208.

**58-04-09. Challenge to voter - Duty of judges.** If any person offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in section 16.1-05-06, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in section 16.1-05-06 to the circumstances of the township meeting.

Approved March 31, 1999

Filed March 31, 1999

## CHAPTER 201

### HOUSE BILL NO. 1285

(Representatives Wikenheiser, Maragos, Nottestad)

### PRECINCT COMMITTEEMEN ELECTION

AN ACT to amend and reenact subsection 3 of section 16.1-03-03 of the North Dakota Century Code, relating to political party election of precinct committeemen.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 3 of section 16.1-03-03 of the North Dakota Century Code is amended and reenacted as follows:

3. Each political party in each voting precinct of this state, otherwise qualifying under subsection 2, is entitled to elect one precinct committeeman for each two hundred fifty votes, or ~~major~~ fraction thereof, cast for the party's presidential electors in the precinct in the last presidential election. Each precinct is entitled to at least one precinct committeeman for each party which qualifies under subsection 2. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.

Approved March 11, 1999

Filed March 11, 1999

## CHAPTER 202

### HOUSE BILL NO. 1284

(Representatives Wikenheiser, Maragos, Nottestad)

### PARTY EXECUTIVE COMMITTEE MEMBERSHIP

AN ACT to amend and reenact section 16.1-03-07 of the North Dakota Century Code, relating to political party district executive committee membership.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-07. Meeting of district committee - Organization.**

1. In every odd-numbered year, the district committee of each party shall meet within fifteen days after the precinct caucus provided for in section 16.1-03-01. The day, hour, and site must be set by the existing district committee chairman. The precinct committeemen of a party, selected as provided by this chapter, with any other persons provided for by the district committee's bylaws and as the district committee designates, constitute the district committee of the party. The district committee of a party must be organized to coincide with the geographical boundary lines of state legislative districts. Each member of any committee provided for in this chapter must be a qualified elector and must retain the office the member was elected to until a successor is chosen. The district committee shall organize by:
  4. a. Selecting a chairman, vice chairman, secretary, and treasurer chosen by the district committee. The officers selected need not be precinct committeemen; however, all the officers must be voting members of the district committee.
  2. b. Adopting rules and modes of procedure not in conflict with law.
  3. c. Filling any vacancies in the office of precinct committeeman pursuant to section 16.1-03-05.
  4. d. Selecting an executive committee consisting of ~~from five to eighteen~~ or more persons chosen from the district committee. The chairman, vice chairman, treasurer, and secretary of the district committee must be members and the officers of the executive committee. That party's nominees for and members of the legislative assembly may also be members of the executive committee. ~~The five to eighteen person membership limitation includes the officers of the executive committee and that party's nominees for and members of the legislative assembly.~~

2. The newly elected chairman shall notify the secretary of state of the names of the party officers selected. The secretary of state shall certify the names of the party officers to the county auditors. If the office of chairman becomes vacant, the vice chairman shall hold the office until the next regular election for the office or until a new chairman is selected by the district committee for the balance of the term, whichever occurs first. The secretary of state must be notified of any changes in membership of the district's committee officers by the district committee and must notify the county auditors of any changes.

Approved March 25, 1999  
Filed March 25, 1999



## CHAPTER 203

### SENATE BILL NO. 2232

(Senators B. Stenehjem, Kringstad, Thompson)  
(Representatives Carlisle, Hoffner, Cleary)

## BOARD OF ELECTION MEMBER QUALIFICATIONS

AN ACT to amend and reenact subsection 1 of section 16.1-05-02 of the North Dakota Century Code, relating to the qualifications of members of the board of election.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 1 of section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

1. a. ~~Every~~ Except as provided in subdivisions b and d, every member of the election board and each poll clerk must be a qualified elector of the precinct in which the person is assigned to work and must be eligible to vote at the polling place to which the person is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.
- b. A student enrolled in a high school or college in this state who has attained the age of sixteen is eligible to be appointed as a poll clerk if the student possesses the following qualifications:
  - (1) Is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a member of an election board;
  - (2) Is a resident of this state and has resided in the precinct at least thirty days before the election; and
  - (3) Is a student in good standing attending a secondary or higher education institution.
- c. A student appointed as a poll clerk may be excused from school attendance during the hours that the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the district party chairman or county auditor stating the hours during which the student will serve. A student excused from school attendance under this subdivision may not be recorded as being absent on any date for which the excuse is operative. No more than two students may serve as poll clerks on an election board.

- d. An individual who has attained the age of sixteen and has graduated from high school or obtained a general education degree from an accredited educational institution is eligible to be appointed as a poll clerk if the individual meets the qualifications of paragraphs 1 and 2 of subdivision b.

Approved March 15, 1999

Filed March 16, 1999

## CHAPTER 204

### SENATE BILL NO. 2148

(Judiciary Committee)

(At the request of the Secretary of State)

## POLITICAL COMMITTEE REPORTING AND ELECTIONS

AN ACT to create and enact a new section to chapter 16.1-08.1 and a new section to chapter 16.1-11 of the North Dakota Century Code, relating to reporting requirements for political committees that organize and register according to federal law and deadlines for placing county and city measures on election ballots; and to amend and reenact sections 11-07-06, 16.1-05-03, 16.1-08.1-01, 16.1-08.1-02, 16.1-08.1-03, 16.1-08.1-03.2, subsection 3 of section 16.1-08.1-03.3, sections 16.1-08.1-06, 16.1-11-06, 16.1-11-11, 16.1-11-22, subsection 3 of section 16.1-13-22, sections 16.1-15-01, 16.1-15-19, and subsection 6 of section 16.1-16-01, relating to election of county commissioners, election worker training sessions, campaign contribution statements, the time for submitting nominating petitions or certificates of endorsement, the primary election ballot, and county canvassing boards and recount boards being authorized to stamp and initial absentee ballots.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 11-07-06 of the North Dakota Century Code is amended and reenacted as follows:

**11-07-06. Petitions - Signers required - Submission of question to voters.** The board of county commissioners, upon receipt of a petition signed by at least ten percent of the qualified electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, shall, in accordance with applicable provisions of title ~~46~~ 16.1, cause the question of whether commissioners shall be elected at large to be submitted to the qualified electors of the county at the next succeeding primary or general election. If approved by sixty percent of the qualified electors voting at such election, all county commissioner districts in ~~such~~ the county ~~shall~~ must be immediately dissolved, and thereafter as the term of office of each member of the board of county commissioners expires, ~~such~~ the office ~~shall~~ must be filled by an election at large.

**SECTION 2. AMENDMENT.** Section 16.1-05-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-03. Secretary of state and county auditors to distribute election information - County auditor to provide instruction.**

1. Not less than thirty days before any primary, general, or special election, the secretary of state shall provide an instruction manual approved by the attorney general, which in layman's terms presents in detail the responsibilities of each election official. The secretary of state shall forward sufficient copies of this manual to each county auditor who shall

distribute the manuals to each member of all the election boards in the county.

2. Before each primary and general election, each county auditor or the auditor's designated representative shall conduct training sessions on election laws and election procedures for election officials in the county and may conduct training sessions before any special statewide or legislative district election. The session or sessions must be conducted at such place or places throughout the county as the county auditor determines to be necessary. Attendance at the session is mandatory for members of the election board and for poll clerks ~~unless the board of county commissioners determines that the poll clerks in that county may not attend~~. The county auditor shall notify the members of the election boards, poll clerks if applicable, and the state's attorney of the time and place of the session. The state's attorney shall attend all sessions to give advice on election laws. The county auditor shall invite the district chairman in that county representing any political party casting at least five percent of the total votes cast for governor at the last election to attend the session at the chairman's own expense. On the date of ~~such~~ the course or courses, the county auditor may deliver to all election inspectors at ~~such~~ the meeting the official ballots and all other materials as provided in chapter 16.1-06. Except as otherwise provided in this section, each person attending the course or courses must be compensated as provided in section 16.1-05-05.
3. An election official, at the option of the county auditor, may be excused from attending a third training session on election laws within a twelve-month period. If an election official has attended a training session within the six months preceding a special election, the election official must be compensated at the pay appropriate for those having attended a training session, as provided in section 16.1-05-05, for that election.

<sup>164</sup> **SECTION 3. AMENDMENT.** Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-01. Definitions.** As used in this chapter, unless the context otherwise ~~plainly~~ requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office.

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<sup>164</sup> Section 16.1-08.1-01 was also amended by section 35 of House Bill No. 1045, chapter 50.

3. "Contribution" means a gift, subscription, loan, advance, or deposit of money, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. ~~Contribution~~ The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes; ~~and~~. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source except as provided in subdivision d. ~~This definition~~ The term does not include:
  - a. A loan of money from a bank or other lending institution made in the regular course of business.
  - b. Time spent by volunteer campaign or political party workers.
  - c. Money spent by a candidate on the candidate's own behalf.
  - d. Any money received ~~from a district or state committee of a political party, as established pursuant to sections 16.1-03-06 and 16.1-03-08, except for contributions reported pursuant to section 16.1-08.1-03~~ by a candidate for legislative office which is immediately transferred or signed over to a district committee of a political party within thirty days of the candidate receiving the money. The district committee of the political party shall report a transfer of this kind as a contribution according to section 16.1-08.1-03 and shall show the origin of the contribution to the legislative candidate.
4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code.
5. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or property, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
6. "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
7. "Person" means an individual, partnership, committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
8. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures primarily for political purposes.
9. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be

filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.

10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, a political committee, a political party, or any person. The term does not include activities undertaken in the performance of a duty of a state office.
11. "Public office" means every statewide or legislative office to which persons can be elected by vote of the people under the laws of this state.

**SECTION 4. AMENDMENT.** Section 16.1-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-02. Contributions statement required of candidates.**

1. Any candidate who is soliciting or accepting contributions for any political purpose shall make and file a statement in accordance with this section.
2. The candidate shall include in the statement the name and mailing address of all contributors who contributed in excess of ~~one~~ two hundred dollars in the aggregate during the reporting period to the candidate, the amount of each reportable contribution, and the date each reportable contribution was received.
3. The candidate shall file the statement in the office of the secretary of state no later than the twelfth day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes complete from the beginning of that calendar year through the twentieth day before the date of the election. The candidate shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year, regardless of whether the candidate's name appeared on the ballot for any office during that calendar year or whether the candidate did not seek election at any election through write-in votes.

~~Statements of a legislative candidate must be filed in the office of the county auditor of the candidate's county of residence. Statements of state office candidates must be filed in the office of the secretary of state.~~

4. Even if the candidate has not received any contributions in excess of ~~one~~ two hundred dollars during the calendar year reporting period, the candidate shall file a statement as required by this chapter.

**SECTION 5. AMENDMENT.** Section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03. Contributions statement required of political parties.**

1. Any political party that receives contributions in excess of ~~one~~ two hundred dollars in the aggregate during the reporting period shall file a statement containing a detailed list of all contributions received from a person or political committee which exceed ~~one~~ two hundred dollars in

amount. The statement must include the name and mailing address of all contributors listed, the amount of each reportable contribution, and the date each reportable contribution was received.

2. A yearend statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the twelfth day before any election at which the party has endorsed or will nominate a candidate and must be complete from the beginning of that calendar year through the twentieth day before the election.
3. Even if the political party has not received any contributions in excess of two hundred dollars during the reporting period, the political party shall file a statement as required by this chapter.

**SECTION 6. AMENDMENT.** Section 16.1-08.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.2. Political committee registration.** A political committee, other than a political party and a committee organized in support of a legislative candidate, and a person aiding or opposing a measure to be voted upon by the voters of the state shall register its name, address, and its agent's name and address with the secretary of state each calendar year in which it receives any contribution. The registration must be completed within five days of the receipt of any contribution and must be submitted with a registration fee of five dollars. A political committee that organizes and registers according to federal law and makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office in this state is not required to register as a political committee according to this section if the political committee reports according to section 8 of this Act.

**SECTION 7. AMENDMENT.** Subsection 3 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. All political committees formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of ~~one~~ two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A yearend statement covering the entire calendar year must be filed no later than the thirty-first day of the following year. A preelection statement must be filed no later than the twelfth day before any primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election.

**SECTION 8.** A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

**Political committees that organize and register according to federal law that make disbursements to nonfederal candidates.** A political committee that organizes and registers according to federal law and makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office in this state shall file a copy of that portion of the committee's federal report detailing the disbursement

made to the candidate. The political committee shall file a copy of the committee's federal report with the secretary of state at the time of filing the report with the applicable federal agency. The report must include:

1. The name, mailing address, and treasurer of the political committee;
2. The recipient's name and mailing address; and
3. The date and amount of the disbursement made.

**SECTION 9. AMENDMENT.** Section 16.1-08.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-06. Contributions statement requirements.**

1. A statement required by this chapter to be filed with the secretary of state ~~or county auditor~~ must be:
  - 4- a. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed to the secretary of state ~~or county auditor~~, but if it is not received, a duplicate of the statement must be promptly filed upon notice by the secretary of state ~~or county auditor~~ of its nonreceipt.
  - 2- b. Preserved by the secretary of state ~~or county auditor~~ for a period of four years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's ~~or county auditor's~~ office and must be open to public inspection.
2. If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state ~~or county auditor~~ is closed, the statement must be filed on the next available day on which the office of the secretary of state ~~or county auditor~~ is open. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.

**SECTION 10.** A new section to chapter 16.1-11 of the North Dakota Century Code is created and enacted as follows:

**Deadline for placing county and city measures on primary, general, or special election ballots.** Notwithstanding any other provision of law, a county may not submit a measure for consideration of the voters at a primary, general, or special statewide, district, or county election after four p.m. on the sixtieth day before the election. A city that has combined its regular or a special election with a primary, general, or special county election, according to the provisions set forth in section 40-21-02, may not submit a measure for consideration of the voters at that election after four p.m. on the sixtieth day before the election.

**SECTION 11. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:



**16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.** Every candidate for United States senator, United States representative, a state office except the office of state senator or state representative, and judges of the supreme and district courts shall, ~~not more than seventy nor less than sixty days~~, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day, prior to any primary election, present to the secretary of state either:

1. A certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which the candidate aspires, and the party which the candidate represents; or
2. A petition containing the following:
  - a. The candidate's name, post-office address, and the title of the office to which the candidate aspires.
  - b. The name of the party the candidate represents if the petition is for an office under party designation.
  - c. The signatures of qualified electors, the number of which must be determined as follows:
    - (1) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
    - (2) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
    - (3) If the office is under the no-party designation, at least three hundred signatures.
  - d. The mailing address and the date of signing for each signer.

If the petition or certificate of endorsement is for the office of governor or lieutenant governor, it must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the sixtieth day prior to the primary election.

**SECTION 12. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-11. County and legislative district candidates' petitions - Filing - Contents.** Every candidate for a county or legislative district office shall present, ~~not more than seventy nor less than sixty days~~ between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day before any primary election, to the county auditor of the county in which the candidate resides either:

1. A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which the candidate aspires, and the party that the candidate represents; or
2. A petition containing the following:
  - a. The candidate's name, post-office address, and the title of the office to which the candidate aspires.
  - b. The name of the party the candidate represents, only if it is a petition for an office that is under party designation.
  - c. The signatures of qualified electors, the number of which must be determined as follows:
    - (1) If the office is a county office, the signatures of not less than two percent and not more than five percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
    - (2) If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent and not more than five percent of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.
    - (3) If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to the percentage as provided in paragraph 1 applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.
    - (4) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.
    - (5) In no case may more than three hundred signatures be required.
  - d. The mailing address and date of signing for each signer.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixtieth day before the primary election.

**SECTION 13. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one party.** At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each party or principle having candidates at the primary election must have a separate column on the ballot; the columns must be separated by a solid six-point rule.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. In each column below the party or principle title must be printed: "You may vote for the candidates of only one party at the primary election. If you cast votes in more than one party column and vote for candidates of more than one party, your party ballot will be rejected."
5. Immediately below the warning against voting for candidates of more than one party must be printed: "Put a crossmark (X) opposite the name of the candidate for whom you wish to vote. To vote for a person whose name is not printed on the ballot write or paste that person's name in the blank space provided for that purpose."
6. The offices specified in section 16.1-11-26 must be arranged in each column with the name of each office in the center of each party column at the head of the names of the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than \_\_\_\_\_ name (or names)."
8. At the side of the name of each aspirant and in a column must be printed a square or other figure for making a crossmark or other mark. No squares or other figures may be printed at the head of the ballot.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the left-hand column, and the party or principle casting the next largest vote must have the next column, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one party the voter's party ballot will be rejected.

**SECTION 14. AMENDMENT.** Subsection 3 of section 16.1-13-22 of the North Dakota Century Code is amended and reenacted as follows:

3. At primary elections, the inspector or judge shall also inform each elector that if the elector splits the party ballot or votes for candidates of more than one party the elector's party ballot will be rejected.

**SECTION 15. AMENDMENT.** Section 16.1-15-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-01. Ballots void and not counted - Part of ballot may be counted.**

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:

4. a. It is not endorsed with the official stamp and initials as provided in this title; or
2. b. It is impossible to determine the elector's choice from the ballot or parts of a ballot.
2. If a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. If an elector votes for more than the number of persons to be elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be invalidated. However, at primary elections only, a party ballot is void if the elector votes for candidates of more than one party.

**SECTION 16. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Votes from unestablished precincts disregarded.** In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. The board may not count votes polled in any place except at established precincts. The county canvassing board is authorized to stamp and initial properly postmarked absentee ballots that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

**SECTION 17. AMENDMENT.** Subsection 6 of section 16.1-16-01 of the North Dakota Century Code is amended and reenacted as follows:

6. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. No person may serve on the recount board if the person would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The recount board is authorized to stamp and initial properly postmarked absentee ballots that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

Approved April 16, 1999  
Filed April 16, 1999

## CHAPTER 205

### HOUSE BILL NO. 1127

(Judiciary Committee)

(At the request of the Secretary of State)

### ABSENTEE BALLOT PRECINCTS

AN ACT to amend and reenact section 16.1-07-12.1 of the North Dakota Century Code, relating to absentee ballot precincts.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-07-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12.1. Absentee ballot precinct - Election board appointment - Ballot counting.**

1. For any primary, general, or special statewide ~~or legislative~~, district, ~~or county~~ election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, ~~for each legislative district in the county~~ for the purpose of counting all absentee ballots cast in an election in that ~~district county~~. ~~Each absentee ballot precinct is a separate precinct for the purpose of ballot arrangement rotation.~~ The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. ~~The governing body of the city shall appoint the election inspector in a district contained entirely within an incorporated city. The county auditor, with the approval of the board of county commissioners, shall appoint all other inspectors. Each district party chairman of the two parties which cast the largest and the next largest number of votes at the last general election shall appoint one election judge for each district. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:~~
  - a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
  - ~~3.~~ b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
  - ~~4.~~ c. ~~The~~ On the day of the election, the absentee ballot counting board shall occupy a ~~room~~ location designated by the county auditor which must be open to any person for the purpose of observing the counting process.

- ~~5.~~ d. The absentee ballots must be opened and handled as required in section 16.1-07-12. The absentee ballot counting board may commence counting the absentee ballots at the same time as any precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

Approved March 11, 1999

Filed March 11, 1999

## CHAPTER 206

### HOUSE BILL NO. 1211

(Representative Winrich)

(Senator DeMers)

### CERTIFICATE OF CANDIDACY FILING

AN ACT to amend and reenact section 16.1-09-02 and subsection 4 of section 16.1-12-02.2 of the North Dakota Century Code, relating to the filing of certificates of candidacy by write-in candidates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-09-02. Statement of interests to be filed.** Every candidate for elective office shall file a statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. A candidate for elective office shall file the statement of interests with the officer with whom the candidate filed the candidate's certificate of nomination, certificate of endorsement, ~~or~~ petition of nomination, or certificate of write-in candidacy. Candidates for elective office who are required to file such statements shall do so at the time of filing a certificate of nomination, a certificate of endorsement, ~~or~~ a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate; ~~provided, that any.~~ A person who has filed a statement as the result of candidacy in a primary election need not refile ~~prior to~~ before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every person who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

**SECTION 2. AMENDMENT.** Subsection 4 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

4. A person who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. When the candidate files a certificate, the candidate also shall file the contribution statement provided for under section 16.1-08.1-02 complete through the day of the filing of the certificate.



## CHAPTER 207

### SENATE BILL NO. 2121

(Judiciary Committee)

(At the request of the Secretary of State)

## PRESIDENTIAL PREFERENCE CONTEST

AN ACT to create and enact two new sections to chapter 16.1-11 of the North Dakota Century Code, relating to requirements for conducting a presidential preference contest and a presidential caucus; to amend and reenact section 16.1-11-02 and subdivision v of subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to the time for holding presidential preference contests and the adoption of rules by the secretary of state; to provide an effective date; and to provide an expiration date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-11-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-02. Presidential preference contest - Time for holding.** In a presidential election year after 2003, there must be conducted a presidential preference contest on the last Tuesday in February of that year. The presidential preference contest may be used only to instruct delegates to a national political convention and may not further the electoral process for any other purpose. No other election or vote on a measure of any kind may be held in conjunction with the presidential preference contest.

**SECTION 2.** A new section to chapter 16.1-11 of the North Dakota Century Code is created and enacted as follows:

**Presidential preference contest - Rules.** Notwithstanding any other provision of law, the secretary of state shall adopt rules relating to the presidential preference contest, including rules providing for the reduction of poll workers, the reduction of poll hours, the reduction of precincts, the arrangement of the names of candidates on the official ballot, the publication of the sample ballot, and open voting within cities or counties.

**SECTION 3.** A new section to chapter 16.1-11 of the North Dakota Century Code is created and enacted as follows:

#### **2000 presidential caucus.**

1. On one designated day between the last Tuesday in February and the first Tuesday in March in the year 2000, every political party entitled to a separate column under section 16.1-11-30 may conduct a presidential preference caucus. If employed by a political party, the results of a presidential preference caucus must be used to instruct delegates to a national political convention.
2. A presidential preference caucus must be conducted in the manner provided in chapter 16.1-03 with the exception that a political party is not required to hold individual caucuses in every election precinct

throughout a district. Only those persons who either voted or affiliated with the party at the last general election or intend to vote or affiliate with the party at the next general election may participate and vote at the presidential preference caucus.

3. Unless specifically forbidden by national party rules, the delegates selected by political parties at a presidential preference caucus are bound to cast their first ballots at the party national convention in such a manner that each candidate at the party's presidential preference caucus receives a proportion of the total votes cast by the delegates equal to the proportion received by that candidate of the total votes cast for all candidates for president of that party at the caucus. If party rules do not allow apportionment of a delegate and such an apportionment appears necessary because no candidate received more than five-tenths of a delegate, in computing the number of delegates to which a candidate is entitled on the first ballot that delegate must be assigned to the candidate receiving the highest number of votes in the contest. If a candidate withdraws before the first ballot voting begins, delegates obligated to vote for that candidate on the first ballot are released from that obligation.
4. A presidential preference contest, as provided for in chapter 16.1-11, may not be conducted in the year 2000 nor is a political party entitled to conduct a presidential preference contest in the year 2000. A political party must notify the secretary of state before August 1, 1999, if the political party will conduct a presidential preference caucus in the year 2000 according to this section.

<sup>165</sup> **SECTION 4. AMENDMENT.** Subdivision v of subsection 2 of section 28-32-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- v. The secretary of state with respect to rules adopted for the presidential preference contest under section ~~16.1-11-02.2~~ 2 of this Act.

**SECTION 5. EFFECTIVE DATE.** Sections 2 and 4 of this Act become effective on January 1, 2003.

**SECTION 6. EXPIRATION DATE.** Section 3 of this Act is effective through April 1, 2000, and after that date is ineffective.

Approved March 18, 1999  
Filed March 19, 1999

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<sup>165</sup> Section 28-32-01 was also amended by section 1 of Senate Bill No. 2110, chapter 304.

## CHAPTER 208

### HOUSE BILL NO. 1181

(Political Subdivisions Committee)  
(At the request of the Secretary of State)

## POLITICAL SUBDIVISION OFFICER OATHS, NOMINATIONS, AND TERMS

AN ACT to amend and reenact sections 15-47-08, 16.1-11-16, 16.1-12-02, 40-08-06, 40-13-03, 40-21-02, 40-21-07, 44-01-04, and 44-02-01 of the North Dakota Century Code, relating to officers of political subdivisions taking oaths of office and failing to qualify for office, nominating petitions and procedures for circulating nominating petitions, filling unexpired terms on a city council by election, and appointing election workers in city elections.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-47-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-47-08. Oath of office of school district officers.** Each person elected or appointed as a member of the school board or as a business manager of the school district, before entering upon the duties of his office, shall take and file with the business manager of the school district the oath prescribed for civil officers within ten days after notice of the person's election or appointment. Refusal to take the oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

**SECTION 2. AMENDMENT.** Section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-16. Form of ~~petition~~ nominating petitions.** ~~A petition required in this chapter may be one continuous list of names under the proper political title or principle or there may be a number of petitions using the same title, containing the aggregate of names required.~~

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
  - a. The candidate's name, address, and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office.
  - b. The name of the party the candidate represents if the petition is for an office under party designation.
  - c. The date of the election at which the candidate is seeking nomination or election.

2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
  - a. The date of signing.
  - b. Their complete residential address, rural route, or general delivery.
  - c. Either the North Dakota city or its corresponding zip code.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

**SECTION 3. AMENDMENT.** Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-02. Certificates of nomination by petition - Form and contents.**

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated must appear on the ballot as independent nominations. Each certificate of nomination by petition ~~must contain:~~

- ~~1. The name of the nominee.~~
- ~~2. The office the nominee desires to fill.~~
- ~~3. The post-office address of the nominee.~~
4. Signatures of qualified electors who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add that person's mailing address and the date of signing meet the specifications for nominating petitions set forth in section 16.1-11-16. The signatures on the petition must be in the following number:
  - ~~a.~~ 1. Except as provided in ~~subdivision e~~ subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
  - ~~b.~~ 2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
  - ~~e.~~ 3. If the nomination is for the office of president, there must be no fewer than four thousand signatures.

5. 4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

<sup>166</sup> **SECTION 4. AMENDMENT.** Section 40-08-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-08-06. Term of office of council members - Staggered terms provided for in cities where other than ten council members elected.** Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that only one-half of the council members in any city are elected in any one election. When a city first adopts the council form of government, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding their election. ~~Whenever, for any cause, more than one-half of the total number of council members in any ward, or more than one-half of the total number of council members in the city, if the city is not divided into wards, are to be elected in any one election, the length of the terms of the council members elected at the election must be determined as provided in this section. Whenever, for any reason, vacancies exist on the council which require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. Candidates seeking nomination to an unexpired term are required to indicate whether or not they are seeking a regular term of office or an unexpired term of office on their nominating petitions as set forth in section 40-21-07.~~

**SECTION 5. AMENDMENT.** Section 40-13-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-13-03. Oaths of municipal officers.** Every person elected or appointed to any municipal office, before ~~he~~ the person enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the auditor, shall file the same with the city auditor within ten days after notice of ~~his~~ the election or appointment has been given. The oath of the city auditor shall be filed in the office of the auditor of the county in which the municipality is located. Refusal to take the oath of office, as required by this section, shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

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<sup>166</sup> Section 40-08-06 was also amended by section 3 of House Bill No. 1025, chapter 289.

**SECTION 6. AMENDMENT.** Section 40-21-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.** Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector; ~~two clerks~~, and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county.

**SECTION 7. AMENDMENT.** Section 40-21-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-07. Petition for nomination of elective official in cities - Signatures required - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. ~~Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address.~~ Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not held in conjunction with combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted.

**SECTION 8. AMENDMENT.** Section 44-01-04 of the North Dakota Century Code is amended and reenacted as follows:

**44-01-04. State, district, and county officers - Failure to qualify - Vacancy.** If any person elected to any state, district, ~~or~~ county, or other political subdivision office fails to qualify and enter upon the duties of such office within the time fixed by law, such office must be deemed vacant and must be filled by appointment as provided by law. If there is a contest for such office or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties thereof, the time above prescribed does not govern and ~~he~~ the person must be allowed twenty days after the day such contest is determined or such obstruction removed in which to qualify.

<sup>167</sup> **SECTION 9. AMENDMENT.** Section 44-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-01. Vacancies - Causes thereof.** An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;
4. Be removed from office;
5. Fail to discharge the duties of ~~his~~ office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by reason of ~~his~~ service in the armed forces of the United States, by sickness, or by other unavoidable cause; provided, however, that as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during ~~his~~ the person's absence, and such office in all cases becomes vacant upon the termination of the term for which ~~he~~ the person was elected or appointed;
6. Fail to qualify as provided by law, which includes taking the designated oath of office prescribed by law;
7. Cease to be a resident of the state, district, county, or township in which the duties of the office are to be discharged, or for which ~~he~~ the person may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of ~~his~~ the officer's official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or

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<sup>167</sup> Section 44-02-01 was also amended by section 4 of House Bill No. 1149, chapter 200.

10. Have ~~his~~ the person's election or appointment declared void by a competent tribunal.

Approved March 9, 1999

Filed March 9, 1999



## CHAPTER 209

### HOUSE BILL NO. 1124

(Judiciary Committee)

(At the request of the Secretary of State)

### BALLOTS

AN ACT to amend and reenact section 16.1-11-27 of the North Dakota Century Code, relating to name rotation on ballots; and to repeal section 16.1-11-28 of the North Dakota Century Code, relating to piling, cutting, and blocking ballots.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-11-27 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-27. Arrangement of names on ballots ~~and voting machines.~~**

- ~~1.~~ Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled.
- ~~2.~~ On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for must be alternated in the following manner:
  - ~~a.~~ 1. The ballot must first be arranged with all the names for each office on the ballot in an order determined by lot by the county auditor ~~or responsible election official~~ and prepared by the county auditor for all state, district, and county offices.
  - ~~b.~~ In printing each set of official ballots for the various election precincts, the position of the names must be changed in each office division as many times as there are candidates in the office division in which there are the most names. The same number of ballots must be printed after each change of position.
  - ~~c.~~ In making the changes of position, the printer shall take the candidate's name at the head of each office division and place it at the bottom of that division, moving the column up so the name that was second before the change is first after the change.
- ~~3.~~ 2. In precincts employing voting machines, the The position of names ~~which that~~ require alternating under the provisions of this section must be alternated so the name appearing first in one precinct will be last in the next precinct, and the name that appeared second must be first in the next precinct, and so on until each name has been moved up or over one space accordingly. This process must be continued from one precinct to another and for as many names as are involved. There must

be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:

- a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
  - b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
4. 3. The precincts must be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election.
- ~~5. If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names must be placed in two or more lines having an equal or nearly equal number of names on each line; provided, that in no event may only one name appear on any line.~~

**SECTION 2. REPEAL.** Section 16.1-11-28 of the North Dakota Century Code is repealed.

Approved March 11, 1999  
Filed March 11, 1999